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SUBJECT: ECUADOR: STATE OF EMERGENCY PRECEDENTS

REF: QUITO 794

1. Summary: While President Gutierrez' recent declaration of a state of emergency has shocked some, it is not unprecedented. Since the return of democracy in 1979, over 60 state of emergencies have been declared for varying reasons, primarily in response to natural disasters. However, this is the first time the current President has made a state of emergency declaration. End Summary.

Constitution Includes State of Emergency Authority

2. The ability to suspend certain rights under a state of emergency, as defined in the Constitution, has existed since 1979 when Ecuador returned to democracy. Since 1998, the Constitution has specifically included the use of police and mobilization as within a President's abilities during a state of emergency. Before 1998, all Constitutional rights could be suspended with the exception of life and integrity. There was also no set maximum duration for a state of emergency. Currently, the rights which can be suspended are specifically identified and the measure's duration is set at 60 days (reftel).

Presidency Announces Precedents

3. In an attempt to reduce public reaction, the presidency on February 15 posted on its website a document accompanying the state of emergency declaration claiming that states of emergency are a mechanism used by "all governments." (All Presidents serving since the return of democracy in 1979 have in fact used the mechanism.) The website states that, during his presidency, Leon Febres Cordero called for a state of emergency 12 times; ex-President Rodrigo Borja used the measure four times; Sixto Duran Ballen 12 times (during two, use of police was invoked) and Bucaram three (one of these included mobilization and one use of the police). Jaime Roldos and Osvaldo Hurtado declared state of emergencies three times each.

HR Organization Studies Previous Declarations

4. According to a study by Ecuadorian human rights organization INREDH, between 1979 and 1999, 63 state of emergencies were declared. (In 33 other cases from 1924 to 1999, exceptional measures such as a mobilization decree, use of police force, declaration of a zone of security, granting of extraordinary powers ("otorgamiento de facultades extraordinarias"), and other dispositions have been issued for a total of 96 extraordinary measures declared.) No state of emergency occurred before the return to democracy. Before 1979, there were no Constitutional provisions for this and instead a granting of extraordinary powers was invoked by the Congress or State Councils.

5. Of the 96 extraordinary measures invoked between 1924 and 1999, 13 were a result of internal unrest, six for public order, six to fight delinquency, 41 for natural disasters, seven for external aggression, and 23 for other reasons. Only 41 of the 96 declarations of extraordinary measures were nationwide.

Recent Declarations

6. In February 1997, Bucaram declared a state of emergency during his last days in office after having been dismissed by Congress for "mental incompetence." At the time three officials, Bucaram, President of Congress Fabian Alarcon, and Vice President Rosalia Arteaga were claiming the presidency. In 1999, Mahuad declared a state of emergency in response to a general strike protesting economic austerity measures. Mahuad also declared an emergency bank holiday preventing Ecuadorians from withdrawing their savings. In 2001, Gustavo Noboa declared a state of emergency when faced with growing protests from indigenous. In 2002, Noboa called for a state of emergency in Sucumbios province, due to its proximity to the worsening Colombian conflict.

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